

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

UNITED STATES DISTRICT COURT

for the

District of Nebraska



____ Omaha ____ Division

Donald C. Seals, Jr.

Case No.

8:23CV489

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

State of Nebraska - Department of Health and Human
Services_____
Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Jury Trial: (check one)

☐

Yes

☐

No

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
2023 NOV -7 AM 11:41
OFFICE OF THE CLERK

COMPLAINT FOR EMPLOYMENT DISCRIMINATION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Donald Seals
Street Address	435 Agnes Street
City and County	Fort Wayne - Allen
State and Zip Code	Indiana 46806
Telephone Number	(260) 452-9097
E-mail Address	DSEADO01@GMAIL.COM

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	State of Nebraska - Department of Health and Human Services
Job or Title <i>(if known)</i>	
Street Address	301 Centennial Mall South
City and County	Lincoln Lancaster
State and Zip Code	Nebraska 68509
Telephone Number	(402) 471-3121
E-mail Address <i>(if known)</i>	

Defendant No. 2

Name	Kim Converse
Job or Title <i>(if known)</i>	DHHS IT Expert Systems Supervisor
Street Address	301 Centennial Mall South
City and County	Lincoln Lancaster
State and Zip Code	Nebraska 68509
Telephone Number	(402) 890-4815
E-mail Address <i>(if known)</i>	

Defendant No. 3

Name	Julie Christensen
Job or Title <i>(if known)</i>	DHHS IT Expert Systems: Application Developer/Interm IT Manger
Street Address	301 Centennial Mall South
City and County	Lincoln Lancaster
State and Zip Code	Nebraska 68509
Telephone Number	(402) 471-3121
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	Lisa Schafers
Job or Title <i>(if known)</i>	DHHS OCIO
Street Address	301 Centennial Mall South
City and County	Lincoln Lancaster
State and Zip Code	Nebraska 68509
Telephone Number	(402) 471-3121
E-mail Address <i>(if known)</i>	

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is

Name	State of NE DHHS 4th Floor
Street Address	1033 O Street
City and County	Lincoln Lancaster
State and Zip Code	Nebraska 68509
Telephone Number	(402) 471-3121

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to *(check all that apply)*:

- ☒ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)

- ☐ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☐ Other federal law *(specify the federal law)*:

- ☐ Relevant state law *(specify, if known)*:

- ☐ Relevant city or county law *(specify, if known)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

- ☐ Failure to hire me.
- ☒ Termination of my employment.
- ☐ Failure to promote me.
- ☐ Failure to accommodate my disability.
- ☒ Unequal terms and conditions of my employment.
- ☐ Retaliation.
- ☐ Other acts *(specify)*: _____

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

March 25, 2021

C. I believe that defendant(s) *(check one)*:

- ☐ is/are still committing these acts against me.
- ☒ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

- ☒ race Black American
 - ☐ color _____
 - ☐ gender/sex _____
 - ☐ religion _____
 - ☐ national origin _____
 - ☐ age *(year of birth)* _____ *(only when asserting a claim of age discrimination.)*
 - ☐ disability or perceived disability *(specify disability)* _____
-

E. The facts of my case are as follows. Attach additional pages if needed.

This complaint is against DHHS is for employment termination because of racial discrimination.

This complaint serves as formal notice of my intent to file a lawsuit for racial discrimination against DHHS. I believe that I have been subjected to unlawful racial discrimination in violation of federal and state anti-discrimination laws, including but not limited to Title VII of the Civil Rights Act of 1964. I was recruited by Becky Fields Contract Staffing Specialists, Inc. (CSS) as a Senior contract to work for DHHS on the Expert System (ES) group in Lincoln, NE. I accepted the offer in late July 2020 and began

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on (date)
July 31, 2021

- B. The Equal Employment Opportunity Commission (check one):

☐

has not issued a Notice of Right to Sue letter.

☒

issued a Notice of Right to Sue letter, which I received on (date) 08/08/2023

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct (check one):

☐

60 days or more have elapsed.

☐

less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

In response to DHHS's apparent contempt and insincerity, the following damages are respectively requested to compensate for lost wages from the time of termination for each year through the final judgment of this complaint

Backpay and front pay = Invoiced hourly rate (\$72/hr) times number of work hours per year (2424) based on (303) working days multiplied by working days per year excluding weekends and holidays. NoOfYears = (number or years since employment end date through the judgment of this lawsuit). (calculations beginning from March 25, 2021)

~~(\$72.00 x 2424) x 11 = \$1,744,800~~

+

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

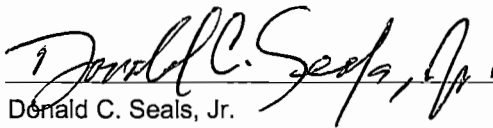
A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 11/06/2023

Signature of Plaintiff

Printed Name of Plaintiff


Donald C. Seals, Jr.

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

III. Statement of Claim – Section Attachment

This complaint is against DHHS is for employment termination because of racial discrimination.

This complaint serves as formal notice of my intent to file a lawsuit for racial discrimination against DHHS. I believe that I have been subjected to unlawful racial discrimination in violation of federal and state anti-discrimination laws, including but not limited to Title VII of the Civil Rights Act of 1964.

I was recruited by Becky Fields Contract Staffing Specialists, Inc. (CSS) as a Senior contract to work for DHHS on the Expert System (ES) group in Lincoln, NE. I accepted the offer in late July 2020 and began work on August 19, 2020. During the latter part of the day on Thursday, March 25, 2021. I received a call from Becky Fields, DHHS instructed her to have me leave the premises immediately. She spoke with Julie Christensen, who had suddenly become an interim manager of the ES team. The reason given to Becky by Julie was "...he's not working out".

As a result of this and other nefarious actions levied against the plaintiff, compensation is necessary, for; loss of income and future income, professional and personal integrity damage, the lack of opportunity to prosper as all the other contractors enlisted at DHHS, as well as the related mental anguish resulting in a lesser enthusiasm to reenter the workforce.

Wrongful Termination Identifiers and Unequal Terms and Conditions of Employment:

The defendants did not allow the same training timelines to the plaintiff as his white counterpart and other team members.

The defendants accused the plaintiff of sub-par performance without a formal evaluation report.

The defendant's adverse action was based securely on racial discrimination rather than being genuinely motivated by agency, departmental, and team-based goals, performance standards, and timely employee evaluations.

The defendant's adverse action was contrived after the sudden retirement of the plaintiff's hiring manager and the new positions achieved by the team lead and interim manager, after being given departmental authority.

The defendants breached their contractual obligation by failing to adhere to the principles of good faith and fair dealing:

The defendants did not cite any poor performance reference(s) to the programming expertise and experience for the reasons the plaintiff was recruited and hired.

The defendants established performance criteria for the plaintiff that were subjective and not aligned with company standards. These criteria were, however, considered acceptable and adjustable for the white counterpart and the entire ES team.

The defendants did not afford the plaintiff formal or informal progress interviews or reports. They did not provide the plaintiff with any indication of detrimental performance or conduct.

The defendants allowed overtime for the plaintiff's white counterpart and all other team members including and especially the supervisor/team lead. The plaintiff was denied overtime, unlike the rest of the team.

I am a Black American IT professional with more than 30 years of experience. The base of my career was as an application consultant with expertise in a very specific and unique programming language (search using AION Business Rules Expert).

In July 2021, I submitted a Charge of Discrimination with EEOC. The investigation resulted in a notice of right to sue which was first viewed on August 10, 2023.

I, the plaintiff, and a white counterpart, Trent Ballentine, were contracted to work for the DHHS Expert Systems (ES) team to perform computer software development services. We were hired and started work at the same time, we had very similar resumes, years of expertise, and experience in a very specific and unique programming language (search using AION Business Rules Expert), as well as overall work experience, age, etc. We also had the same reporting structure with a direct supervisor (Kim Converse), manager (Julie Christensen), and executive-level management (Lisa Schafers), all named as defendants. Trent and I communicated often about our roles and progress. Based on performance I was arguably comparable of not ahead of Trent throughout my employment with DHHS.

Due to the termination of my employment from a position of this significance, nature, and pay grade, and considering the adverse actions taken against me, which encompass my dismissal, consequent financial losses and hardships, unfounded accusations related to my performance, and the persistent personal trauma I have faced and still experience, I am pursuing comprehensive monetary restitution to rectify these injustices, as well as for the loss of future professional and personal gains.

V. Relief – Section attachment

In response to DHHS's apparent contempt and insincerity, the following damages are respectively requested to compensate for lost wages from the time of termination for each year through the final judgment of this complaint

Backpay and front pay = Invoiced hourly rate (\$72/hour) times number of work hours per year (2424) based on (303) working days multiplied by number of years since employment end date through the judgment of this lawsuit). Rate of inflation should be adjusted accordingly. Example below represents gross pay. Calculation does not include deductions tax or otherwise. Calculation based on minimum of five years of service. Calculation does not include weekends and standard holidays.

$(\$72.00 \times 2424) \times 5 \text{ years} = \872640

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC 563-2021-01716	
INDIANA CIVIL RIGHTS COMMISSION and EEOC <i>State or local Agency, if any</i>			
Name (indicate Mr., Ms., Mrs.) MR. DONALD SEALS		Home Phone 260-452-9097	
Street Address City, State and ZIP Code 435 AGNES STREET, FORT WAYNE, IN 46806			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name STATE OF NEBRASKA DHHS		No. Employees, Members 15 - 100	
Street Address City, State and ZIP Code 1033 O ST # 400, LINCOLN, NE 68508			
Name		No. Employees, Members	
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).) <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 03-25-2021 03-25-2021 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): On or about March 25, 2021 the State of Nebraska Department of Health and Human Services (DHHS) terminated my employment and I believe the termination was based upon my race (African-American) because: I began working for DHHS on or about August 24, 2020 and at all times throughout my employment tenure I either met or exceeded DHHS's business expectations. However, the initial job assignments that were given to me were eventually taken from me and given to other Caucasian team members and I requested/volunteered for my substantial work, but my requests were denied. In fact, there were times when a week or more would go by where I was not given any assignments to perform. Moreover, in late November 2020 or early December 2020 my former Caucasian Team Lead (Kim Converse) announced in a team meeting that overtime had been authorized, but I was not allowed any overtime like my Caucasian former co-workers were provided. I was the only African-American employee working within my former team. On or about March 25, 2021 I was informed by the			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the above is true and correct. Digitally signed by Donald Seals on 07-30-2021 09:22 AM EDT		NOTARY - When necessary for State and Local Agency Requirements I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☐

FEPA

☒

EEOC

563-2021-01716**INDIANA CIVIL RIGHTS COMMISSION**

and EEOC

State or local Agency, if any

individual that recruited me for this position that I was being released and to gather my personal belongings and leave the premises immediately because the Caucasian Interim Manager (Julie Christenson) stated I was not working out.

I believe I was subjected to different terms and conditions of employment and disparate treatment and that DHHS decision to terminate my employment was based upon my race in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

**Digitally signed by Donald Seals on 07-30-2021
09:22 AM EDT**

NOTARY - *When necessary for State and Local Agency Requirements*

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Kansas City Area Office
400 State Ave, Suite 905
Kansas City, KS 66101
(913) 340-8810
Website: www.eeoc.gov

DETERMINATION AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161, 161-A & 161-B)

Issued On: 08/08/2023

To: Donald Seals
435 Agnes Street
Ft. Wayne, IN 46806

Charge No: 563-2021-01716

EEOC Representative and email: Natascha DeGuire
Area Director
natascha.deguire@eeoc.gov

DETERMINATION OF CHARGE

The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

NOTICE OF YOUR RIGHT TO SUE

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign-in to the EEOC Public Portal and upload the court complaint to charge 563-2021-01716.

On behalf of the Commission,

Digitally Signed By: David Davis
08/08/2023

David Davis
Acting District Director

cc:

Grant Dugdale
State of Nebraska
Dept. of Health & Human Services
301 Centennial Mall S
Lincoln, NE 68508

Please retain this notice for your records.



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